

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1028 OF 2005

Mr.K.V.Krisshnamoorthy
and Anr. ..Applicants

Vs.

Hundalani Finance &
Leasing Co.Ltd. and Anrs. ..Respondents

...
Mr.Rajesh Yadhav i/b Manoj S.Mhambray Advocate for
Applicants
Mr.S.R.Shinde A.P.P. for the State
Mr.Mithu Hindulani in person on behalf of
Respondent no.1
...

CORAM: SMT.V.K.TAHILRAMANI, J.
DATE : SEPT. 19, 2005

P.C.

1. Heard the learned advocate for the applicants,
the learned A.P.P. for the State and Mr.Mithu
Hindulani in person on behalf of respondent no.1.

2. The applicants are seeking quashing of process
issued by the learned 47th Addl. Chief
Metropolitan Magistrate at Esplanade, Mumbai in
Case No.735/S/2003 (846 of 1996). In the said case

process was issued against the applicants under Sections 138 r.w. 141 of Negotiable Instruments Act.

3. For the reasons recorded in the decision of this Court in the case of **V.K.Jain and others Vs. Pratap V. Padode** reported in 2005(3) Mh.L.J.778, I am of the opinion that the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer the necessary revision before the concerned Sessions Court. The complainant informs that the next date before the trial Court is on 29.10.2005. In view of this statement, the learned advocate for the applicants states that necessary revision will be preferred on or before 28.10.2005 and he will give two days' advance notice in respect of filing revision to the complainant.

. The respondent no.1-complainant fairly states that the revision will be argued only on merits and no objection will be raised in respect of delay in filing the revision.

5. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the matter on merits after hearing the necessary parties.

6. Criminal Application is disposed of.

[V.K.TAHILRAMANI, J.]